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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,864	07/28/2003	Michael Nally	57471/03-454	3817
22206	7590	10/18/2005	EXAMINER	
FELLERS SNIDER BLANKENSHIP BAILEY & TIPPENS THE KENNEDY BUILDING 321 SOUTH BOSTON SUITE 800 TULSA, OK 74103-3318			TON, ANABEL	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/628,864	NALLY ET AL.	
	Examiner	Art Unit	
	Anabel M. Ton	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-6 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chien (5,871,271) and further in view of Romano (3,963,917)

Chien discloses the claimed invention except for the recitation of the translucent windows comprising protrusions. Chien discloses a protective shell defining an inside surface and an outside surface (1,33) an outer shell in communication with said outside surface of said protective shell (33); a plurality of lamps adapted to emit light through said outer shell;(fig 2) a power supply in electrical communication with said plurality of lamps to provide power for the operation of said plurality of lamps (10); a motion detecting switch in communication with said lamps such that upon movement of said motion detecting switch(41), electrical power is supplied to least one lamp of said plurality of lamps for a predetermined period of time and wherein said outer shell is

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provided with a plurality of translucent windows through which said lamps emit light (18,20). Romano discloses a light source on a helmet with a transparent bulb like protrusion made of a shatter resistant material to protect the bulb harsh exterior elements. It would have been an obvious to one having ordinary skill in the art at the time the invention was made to use a protective protrusion for the light sources of Chien since the examiner takes Official Notice of the equivalence of a transparent protrusion and the transparent optical device member encasing a light source for their use in the illumination art and the selection of any of these known equivalents to protect a light source when used in a helmet application to prevent damage to the light source would be within the level of ordinary skill in the art.


- Chien discloses a flasher module having a plurality of programs (col. 7 lines 1-27);
- The power supply comprises a battery;
- The plurality of lamps are LEDs (Chien);
- A first program turns on all the lamps for a predetermined period of time.
- With regards to the second program initiating the light sources to flash in a random manner, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement such a program in the device of Chien since Chien provides for a multitude of controlling means for initiating a sequence of flashing of the light device and flashing the lighting devices randomly would be purposeful for an aesthetically pleasing effect of the helmet;
- The plurality of lamps are beneath an outside surface of the protective shell.

Allowable Subject Matter

3. Claims 7-8 allowed.
4. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited does not teach the feature of the protrusions being elliptical having a longitudinal axis aligned with a front to back axis of the protective shell and a conductive ball housed in the housing such that upon sufficient movement of the motion detecting switch the ball will roll into simultaneous contact with the conductive inner surface of the contact thereby completing an electrical circuit between the first and second terminal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton
Examiner
Art Unit 2875

AMT



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800